

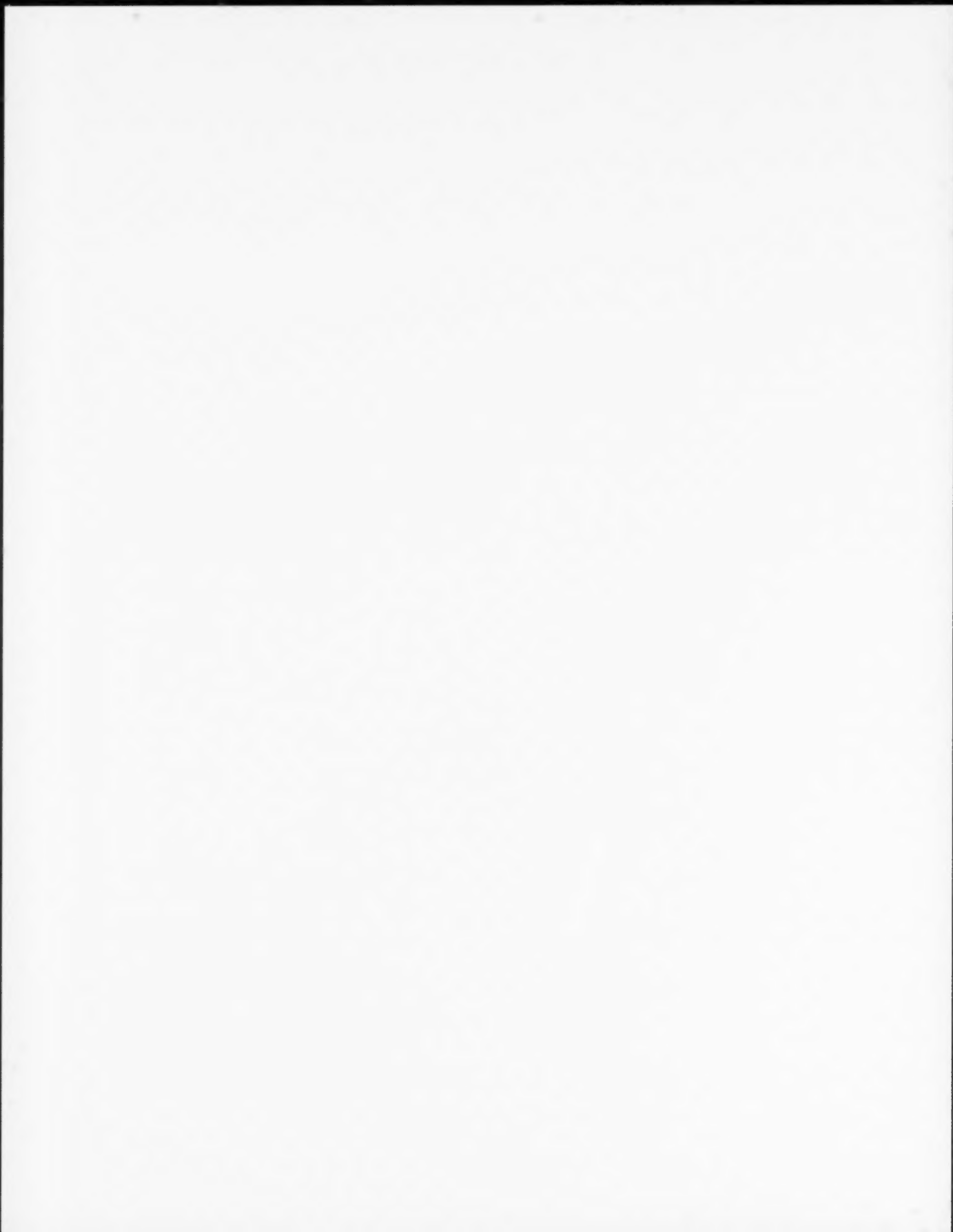
# **Public Servants Disclosure Protection Tribunal Canada**

2011–12

**Departmental Performance Report**

A handwritten signature in black ink, appearing to read 'James Moore', is positioned above a horizontal line.

The Honourable James Moore, P.C., M.P.  
Minister of Canadian Heritage and Official Languages

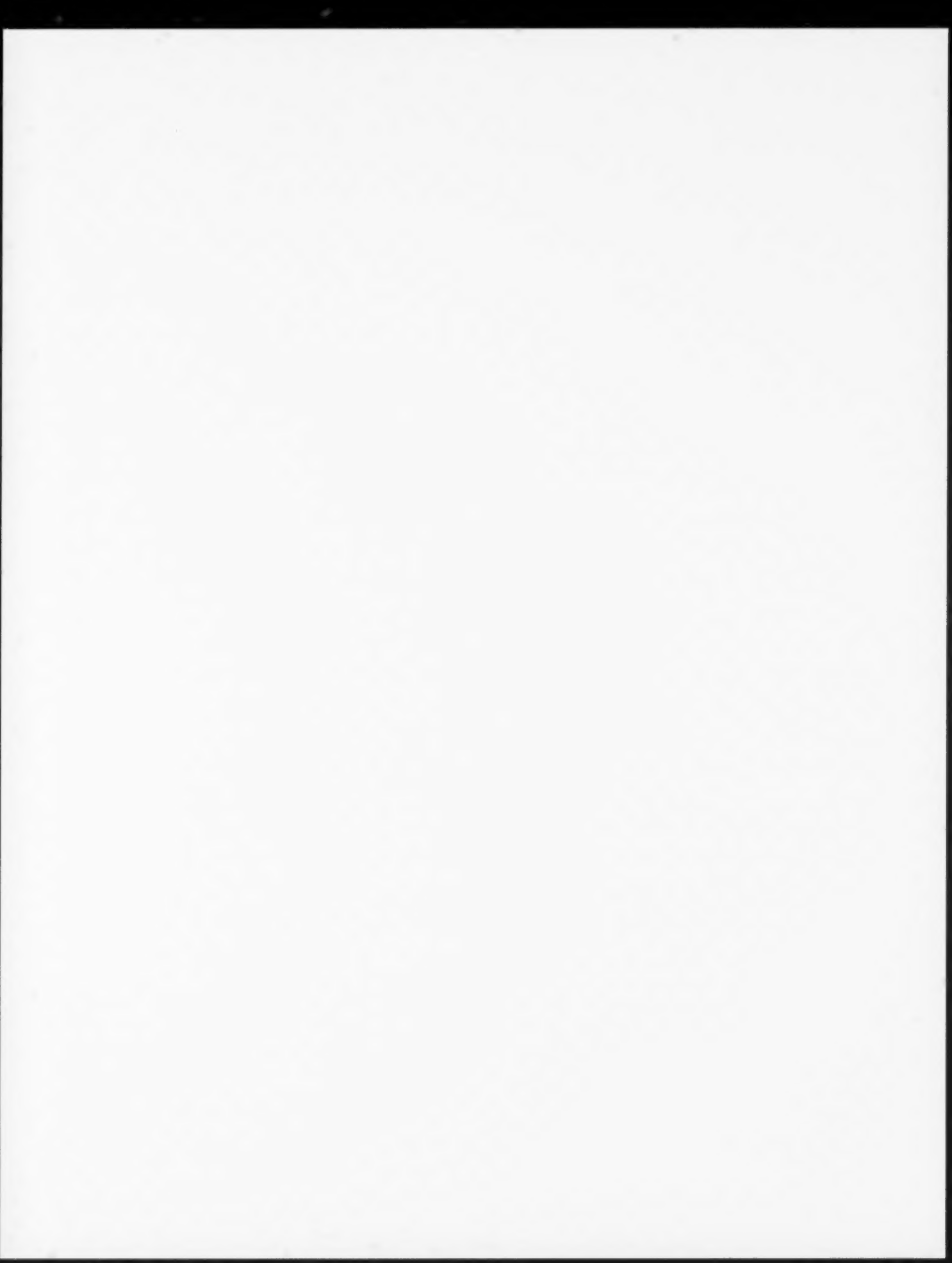


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## Registrar's Message

I am pleased to present the 2011-2012 Departmental Performance Report for the Registry of the Public Servants Disclosure Protection Tribunal.

This year, the Public Sector Integrity Commissioner referred the first three reprisal complaints to the Tribunal. This enabled the Tribunal to begin laying the foundation of the new public servants' disclosure protection regime. The Tribunal issued five interlocutory decisions which clarify the scope of the *Public Servants Disclosure Protection Act* (the *Act*). It also established a consultation committee composed of union and employer representatives as well as officials from the RCMP and the Office of the Public Sector Integrity Commissioner. The committee met twice during the year to provide input into the Tribunal's rules, practices and procedures.

The Registry also launched a virtual Resource Centre to provide support to parties who appear before the Tribunal. Resources posted to date include a list of the jurisprudence cited in the Tribunal's decisions, a chart outlining the role of stakeholders, short analyses of key decisions in the area of whistleblowing, an article on the basics of whistleblowing and reprisal and some linguistic tools. More tools and resources will be developed in the months ahead.

This year, the Registry spent 85% of its budget allocation. Salaries and employee benefits accounted for 63% of spending.

Lisanne Lacroix  
Registrar and Deputy Head  
Registry of the Public Servants Disclosure Protection Tribunal

## Section I: Organizational Overview

### Raison d'être

The Tribunal was established to protect public servants who disclose wrongdoing from reprisals.

### Responsibilities

The Tribunal is an independent quasi-judicial body responsible for dealing with reprisal complaints referred by the Public Sector Integrity Commissioner. The Registry provides administrative and legal services to the Tribunal.

### Strategic Outcome and Program Activity Architecture

**Strategic Outcome**

*Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals.*

**Program Activity**

*Reprisal Hearings Program*

**Expected Results**

*Effective management of the Tribunal's hearing process*

## Organizational Priorities

### Summary of Progress Against Priorities

Operational Priority	Type <sup>1</sup>	Program Activity
Establish an effective Tribunal composed of a new chairperson and new members	New	Reprisal Hearings Program
<ul style="list-style-type: none"> <li>New members were sworn in on May 26, 2011 and member training was completed in June 2011.</li> <li>Tribunal meetings were held in June and December 2011.</li> <li>The Registry provided the legal and administrative support required by the Tribunal to deal with reprisal complaints received from the Office of the Public Sector Integrity Commissioner. The Tribunal issued its first five interlocutory decisions.</li> </ul>		
Operational Priority	Type	Program Activity
Create a jurisprudential database on reprisals	New	Reprisal Hearings Program
<ul style="list-style-type: none"> <li>A new section entitled "Resource Centre" has been added to the Tribunal's website. The Resource Centre includes information on the <i>Public Servants Disclosure Protection Act</i>, jurisprudence cited by the Tribunal, articles and analyses pertaining to whistleblowing and reprisal, and linguistic tools.</li> <li>The Registry will continue to populate the Resource Centre in the months and years ahead with a view to becoming a comprehensive source of information on whistleblower protection.</li> </ul>		
Operational Priority	Type	Program Activity
Provide efficient, quality Registry services to parties who appear before the Tribunal	New	Reprisal Hearings Program
<ul style="list-style-type: none"> <li>The Registry developed a Registry Procedures Manual with the help of an experienced registry officer recruited in the fall of 2011. This internal manual ensures that all cases are dealt with in an efficient and consistent fashion.</li> <li>A number of statements have been posted on the Tribunal's website to assist parties in preparing for hearings and case management conferences. These statements were developed with the help of the Tribunal's Client Consultation Committee, a committee established in June 2011 to provide input into the processes, practices, policies and rules relating to procedural matters. Two meetings of the Client Consultation Committee were held this fiscal year.</li> <li>Although service standards were established and a survey instrument was developed to assess parties' level of satisfaction with registry services, too few cases were received by the Tribunal in 2011-2012 to measure client satisfaction.</li> </ul>		

1. Type is defined as follows: previously committed to—committed to in the first or second fiscal year prior to the subject year of the report; ongoing—committed to at least three fiscal years prior to the subject year of the report; and new—newly committed to in the reporting year of the Report on Plans and Priorities or the Departmental Performance Report.

Operational Priority	Type	Program Activity
Inform the parties about how the Tribunal operates	New	Reprisal Hearings Program
<ul style="list-style-type: none"> <li>A Procedural Guide, developed to help parties understand the Tribunal's Rules of Procedure, is now posted on the Tribunal's website. The guide explains, in plain language, how a hearing is conducted and the procedures to follow. The Rules of Procedure are also available on the Tribunal's website.</li> </ul>		
Operational Priority	Type	Program Activity
Prepare for the five-year review of the Act	New	Reprisal Hearings Program
<ul style="list-style-type: none"> <li>The Registry has completed its own review of the Act and is ready to work with other stakeholders to propose amendments.</li> </ul>		

Management Priority	Type	Program Activity
Mobilize human and financial resources to provide the support the Tribunal will need to deal with reprisal complaints	New	Reprisal Hearings Program
<ul style="list-style-type: none"> <li>The Registry reviewed its human resources needs in terms of both number of employees and skills set. Employees who left the Registry were replaced by persons with experience acquired in other administrative tribunals and were well equipped to provide the legal and administrative support required by the Tribunal to handle reprisal complaints.</li> <li>Agreements were negotiated with other organizations to bring employees on board for short periods of time to conduct research and help launch the Resource Centre.</li> </ul>		
Management Priority	Type	Program Activity
Manage the Registry's financial resources taking into consideration the measures introduced by the Government to minimize operating expenses	New	Reprisal Hearings Program
<ul style="list-style-type: none"> <li>The Registry has managed its financial resources with prudence and probity and with a view to minimizing operating expenses. It negotiated agreements with other government agencies located in the same building to obtain services and access to facilities at a reduced cost or free of charge.</li> <li>Measures were put in place to ensure that travel, hospitality and conference expenses incurred during the year were directly related to the Tribunal's mandate and priorities and that the most economical and efficient options were considered when making travel arrangements.</li> <li>The Registry was an active member of a working group established by the Heads of Federal Administrative Tribunals Forum to explore possible sources of efficiencies.</li> </ul>		



## Risk Analysis

It continues to be difficult to estimate the number of cases the Tribunal can expect to receive on an annual basis. The Registry has yet to receive a sufficient number of cases to be able to assess how much a typical hearing will cost, how often the Tribunal will sit as a panel or how many cases will be heard outside the national capital region. The unpredictable nature of the Tribunal's caseload makes it difficult to manage human and financial resources.

The Registry will nevertheless continue to manage its financial resources with due regard to economy, efficiency and effectiveness. It will look for new opportunities to share costs with other administrative tribunals and organizations. It will also continue to use fixed-term employment and assignment opportunities to meet its human resources needs in the short term. This will enable the Registry to ensure that the organization has a sufficient number of employees to provide the support required by the Tribunal while managing financial and human resources in a responsible fashion.

## Summary of Performance

### 2011-12 Financial Resources (\$ thousands)

Planned Spending	Total Authorities	Actual Spending
1,838	1,953.9	1,686.6

### 2011-12 Human Resources (full-time equivalents [FTEs])

Planned	Actual	Difference
12	7	5
<ul style="list-style-type: none"> <li>Because the Registry is still not sure how many cases it can expect to receive on an annual basis, it hires some staff to work on specific projects for short periods of time. Because these employees are not full-time equivalents, they are not included in this chart.</li> </ul>		

## Summary of Performance Tables

### Progress Toward Strategic Outcome

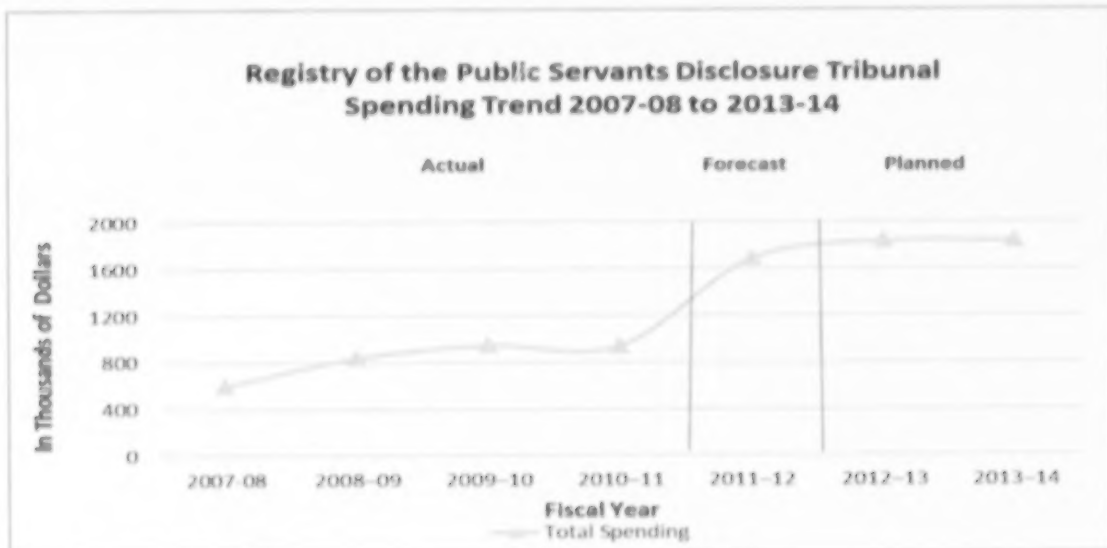
<b>Strategic Outcome: Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals</b>		
<b>Performance Indicators</b>	<b>Targets</b>	<b>2011-12 Performance</b>
Number of decisions or orders issued within 250 calendar days from the start of a proceeding	90% of proceedings are completed within 250 calendar days	See Performance Summary and Analysis of Program Activity below.
Degree of client satisfaction with respect to services offered by the Registry	80% of clients are satisfied with services offered by the Registry	It is too early to assess client satisfaction given the small number of cases referred to the Tribunal by the Public Sector Integrity Commissioner.

### Performance Summary, Including Internal Services\*

<b>Program Activity</b>	<b>2010-11 Actual Spending</b>	<b>2011-12 (\$ thousands)</b>				<b>Alignment to Government of Canada Outcome</b>
		<b>Main Estimates</b>	<b>Planned Spending</b>	<b>Total Authorities</b>	<b>Actual Spending</b>	
Reprisal Hearings Program	940.3	1,838	1,838	1,953.9	1,686.6	Well-managed and efficient government operations
<b>Total</b>	<b>940.3</b>	<b>1,838</b>	<b>1,838</b>	<b>1,953.9</b>	<b>1,686.6</b>	

\* The Registry has obtained an exemption from reporting on its internal services separately.

## Expenditure Profile



## Estimates by Vote

For information on the Registry's organizational votes and/or statutory expenditures, please see the Public Accounts of Canada 2012 (Volume II). An electronic version of the Public Accounts 2012 is available on the Public Works and Government Services Canada website<sup>1</sup>.

## Section II: Analysis of Program Activities by Strategic Outcome

### Strategic Outcome

Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals.

### Program Activity: Reprisal Hearings Program

The Registry of the Public Servants Disclosure Protection Tribunal assists the Tribunal in fulfilling its mandate by supporting the effective management of the Tribunal's hearing process. This includes receiving documents, processing cases, maintaining Tribunal records, providing logistical, legal and administrative support, organizing training sessions for Tribunal members and informing clients of Tribunal procedures and directives.

#### 2011-12 Financial Resources (\$ thousands)

Planned Spending	Total Authorities	Actual Spending
1,838	1,953.9	1,686.6
<ul style="list-style-type: none"> <li>It is difficult for the Registry to forecast what percentage of its budget it will spend in any given year since it has no control over the number of cases that are referred to the Tribunal by the Public Sector Integrity Commissioner.</li> </ul>		

#### 2011-12 Human Resources (full-time equivalents [FTEs])

Planned	Actual	Difference
12	7	5
<ul style="list-style-type: none"> <li>Because the Registry is still not sure how many cases it can expect to receive on an annual basis, it hires some staff to work on specific projects for short periods of time. Because these employees are not full-time equivalents, they are not included in this chart.</li> </ul>		

### Program Activity Performance Summary

Expected Results	Performance Indicators	Targets	Actual Results
Effective management of the Tribunal's proceedings	Number of decisions or orders issued within 250 calendar days from the start of a proceeding	90% of proceedings are completed within 250 calendar days	See Performance Summary and Analysis of Program Activity below.
	Degree of client satisfaction with respect to services offered by the Registry	80% of clients are satisfied with services offered by the Registry	It is too early to assess client satisfaction given the small number of cases referred to the Tribunal by the Public Sector Integrity Commissioner.

### Performance Summary and Analysis of Program Activity

The Tribunal pursues one strategic outcome: remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals. The Reprisal Hearings Program is the only program activity that contributes to this strategic outcome. Two indicators have been established to measure the Registry's performance: the number of decisions and/or orders issued within 250 calendar days from the start of a proceeding; and the degree to which clients are satisfied with respect to services offered by the Registry.

The Public Sector Integrity Commissioner referred three cases to the Tribunal in 2011-2012. In one case, the Registry met its target. The matter was resolved through mediation within 250 calendar days. In another case, the Tribunal suspended its proceedings 154 days after receipt of the application, pending the resolution of the complainant's request for judicial review of the Commissioner's decision on the original complaint. The Federal Court is scheduled to hear the case on September 11, 2012. The third application was received on March 29, 2012, 2 days before the end of the fiscal year.

Too few cases were received this year for the Registry to conduct any meaningful client satisfaction survey.

## Lessons Learned

It has become apparent that there are several factors outside the Tribunal's control that could lengthen a proceeding. The matters referred to the Tribunal can include complex preliminary motions. There are also multiple parties involved and finding a time when all parties and the presiding member are available can be quite challenging. Tribunal members are full-time judges of the Federal Court and their schedule is set one year in advance. In cases where the members sit as a panel, it is extremely difficult for them to be freed up from their regular Court duties at the same time.

For these reasons, the performance indicators set by the Registry may not be realistic or even appropriate. The Registry will determine whether existing performance indicators need to be modified or new ones established once it has handled a few more cases.

## Program Activity: Internal Services

The Registry of the Public Servants Disclosure Protection Tribunal has an exemption from reporting separately on its Internal Services.

The Registry is a participant in the Federal Sustainable Development Strategy (FSDS) and contributes to the Greening Government Operations targets through the Internal Services activity. The department currently contributes to the green procurement target area of Theme IV Shrinking the Environmental Footprint – Beginning with Government, of the FSDS.



### Theme IV

Shrinking the Environmental Footprint -  
Beginning with Government

For additional details on the Registry of the Public Servants Disclosure Protection Tribunal's Greening Government Operations activities, please see the List of Supplementary Information Tables in Section III.

### Section III: Supplementary Information

#### Financial Highlights

##### Condensed Statement of Financial Position (Unaudited)

As at March 31, 2012

(\$)

	Change %	2011-12	2010-11
Total net liabilities	75.3	497,259	283,741
Total net financial assets	308.4	375,237	91,882
Departmental net debt	(36.4)	122,022	191,859
Total non-financial assets	611.7	317,613	44,626
Departmental net financial position	232.8	195,591	(147,233)

##### Condensed Statement of Operations and Departmental Net Financial Position (Unaudited)

For the Year Ended March 31, 2012

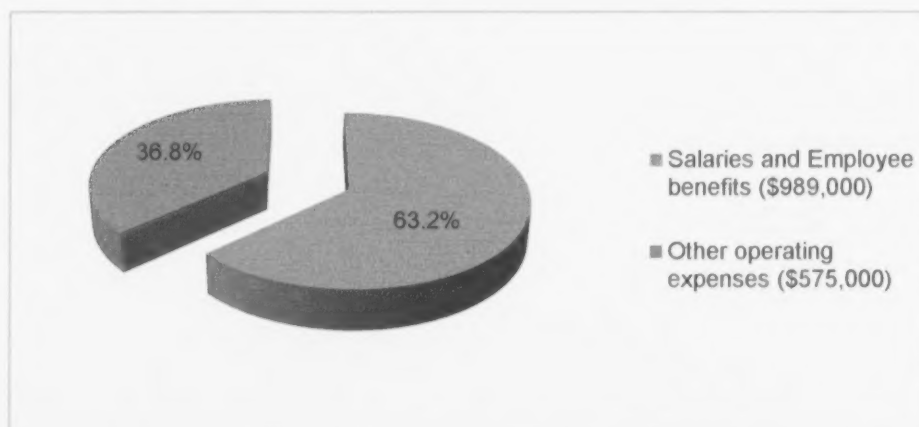
(\$)

	Change %	2011-12	2010-11
Total expenses	40.2	1,564,276	1,115,680
Total revenues	0	0	0
Net cost of operations before government funding and transfers	40.2	1,564,276	1,115,680
Departmental net financial position	232.8	195,591	(147,233)

## Financial Highlights—Charts and Graphs

### Allocation of Cost of Operation by Expense Category

The 2011–2012 Statement of Operations reports \$1,564,276 in total expenses. Salaries and employee benefits represent 63.2% of operating expenses in 2011-2012 (60% in 2010-2011). Other operating expenses represent 36.8% (40% in 2010-2011) of total expenses.



## Financial Statements

Financial statements are available on the web site<sup>ii</sup> of the Public Servants Disclosure Protection Tribunal Canada.

## List of Supplementary Information Tables

Electronic supplementary information tables listed in the 2011–12 Departmental Performance Report can be found on the Public Servants Disclosure Protection Tribunal's web site.

- ▶ Greening Government Operations<sup>iii</sup>
- ▶ Internal Audits and Evaluations<sup>iv</sup>



## Section IV: Other Items of Interest

### Organizational Contact Information

Public Servants Disclosure Protection Tribunal Canada

90 Sparks Street, Suite 540

Ottawa, Ontario K1P 5B4

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Facsimile: 613-943-8325

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Web site: [www.psdpt-tpfd.gc.ca](http://www.psdpt-tpfd.gc.ca)

## Endnotes

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<sup>i</sup> <http://www.tpsgc-pwgsc.gc.ca/recgen/txt/72-eng.html>

<sup>ii</sup> <http://www.psdpt-tpfd.gc.ca/ResourcesRessources/DepartmentalReports-eng.html>

<sup>iii</sup> <http://www.psdpt-tpfd.gc.ca/ResourcesRessources/DPR-RMR/2011-2012/DPR-2011-2012-Annex-01-eng.html>

<sup>iv</sup> <http://www.psdpt-tpfd.gc.ca/ResourcesRessources/DPR-RMR/2011-2012-DPR-2011-2012-Annex-02-eng.html>